

Kentucky Water Well Driller's Certification Board

Meeting Minutes
May 4, 2012

Opening Remarks:

The regular meeting of the Water Well Drillers Certification Board ("the Board"), was called to order at 09:25 AM, on May 4, 2012 by Danny Kelly. The board meeting was held at Cumberland Falls State Park near Corbin, Kentucky.

Roll Call:

Danny Kelly made introductions of board members and guest present. Most everyone knew one another. Roll call was made and all board members were present, with the exception of Jim Dinger from the Kentucky Geological Survey, who had retired April 13, 2012. However, Bart Davidson was present in his stead, as an acting board member, and he introduced himself to the board members.

Present:

Danny Kelly Chairman, Regional Water Well Driller Representative
Orris Hayes, Regional Water Well Driller Representative
Bart Davidson, KGS Representative
David Jackson, Cabinet Representative
Jim Bates II, Regional Water Well Driller Representative
Roy Toney, Public at Large Representative
Scotty Robertson, Water Well Driller Certification Program Coordinator

Guests:

Kevin Moses, Moses Drilling, water well and geothermal driller.

Absent:

Jim Dinger retired April 13, 2012
Todd Mills, Regional Monitoring Well Driller Representative

Announcements:

Bart Davidson announced that Jim Dinger retired April 13, 2012, and he is Dinger's interim replacement. Bart is temporarily replacing Jim Dinger until Governor Beshear appoints a new board member. Danny asked if anyone else had any announcements. No one had any so Danny moved on to Approval of Minutes.

Approval of Minutes:

Scotty Robertson handed out the meeting agenda and the minutes of the March 1, 2011 board meeting prior to the start of this board meeting. The members silently read the minutes of the meeting. Danny asked if everyone was satisfied with the minutes or had comments. David Jackson corrected the spelling of Representative Nesler's name. Danny asked for a motion to approve the minutes.

Roy Toney made a motion to approve the minutes of the March 1, 2011 Kentucky Water Well Drillers Board meeting as amended and David Jackson seconded the motion. Danny asked for a vote to approve the minutes as amended. The motion was approved unanimously.

Old Business:

Danny stated as part of old business that Rep. Leslie Combs was very helpful in submitting the geothermal well drilling bill to the House of Representatives. Orris asked what was decided about retiring drillers that want to keep their license but not keep up insurance and training. Orris was reminded that at the last meeting it had been decided that current license holders must keep up their insurance, training, and bond in order to keep their certification. The regulations do not allow for a retired class of driller.

Danny resumed discussing the failed geothermal well drilling bill. Rep Leslie Combs had introduced the bill to the Kentucky House of Representatives. Steve Collins from the Legislative Research Committee (LRC) had advised amending the existing drilling regulations to include geothermal drillers instead of creating a new statute. Steve Collins then assisted in preparing House Bill 561 to revise the existing water well driller statute to include geothermal drilling, and Rep Combs then brought the bill before the House of Representatives.

According to Danny, the atmosphere in the Senate and House was that they weren't interested in passing any more regulations by the US EPA. They had to convince members of both houses that this bill was not adding more regulations, it was just including those drillers left out of the current regulations. To that end, Danny and Orris met with Sen. Stumbo, and with Rep. Steve Rudy's assistance, they got everyone in both parties on board with bill.

House Bill 561 came out of the Tourism, Development and Energy committee under Rep. Leslie Combs. Everyone in the House voted unanimously for the bill, but due to technicalities the bill was sent to the Revenue and Appropriations committee for changes. The bill failed to get out of this committee and back to the House floor before the end of the session, so by default, the bill died in committee. Danny and Orris talked to the senators and representatives and they felt that the bill should be resubmitted to the House of Representatives during the next session in February 2013 where they believe it will pass without any trouble.

David stated that the Energy and the Environment Cabinet had written a letter to the House of Representatives in opposition to the bill because of revenue issues. Danny and Orris were unaware of this. David stated that the Kentucky Ground Water Association (KGWA) would have

to address the revenue issues before the bill could be resubmitted in the next legislative session. Danny said he was unaware that the bill had to go through the whole process again. Roy Toney said that we needed to have every issue addressed and written up to go with the bill when it is submitted.

David stated that the water well driller new registrations and certifications are dropping off and that bringing on geothermal drillers should not cause an increase in the cost to the program, since we would in fact be replacing lost revenue.. Toney asked about data that would show the trends in water well drilling and geothermal drilling, and asked if the Board could develop charts. The reply from David was yes, we can go back about ten years for the water well drilling data. Kevin Moses noted that geothermal data in Kentucky is not reported so it may be hard to obtain. Danny suggested looking at other states for information. David suggested showing how surrounding states' have dealt with laws and regulations. He noted that all states touching Kentucky except Indiana have geothermal regulations, so the board could use that information. Orris then read into the record the changes made to House Bill 561.

Evidently, the wrong committee introduced House Bill 561. It should have been, introduced by the Revenue and Appropriations rather than Tourism, Development and Energy. David suggested that they get letters from the boards of HVAC contractors, general contractors, architects, geologists, engineers, and homebuilders associations, and letters from geothermal drillers that are not opposed to the bill. The bill needs documentation supporting the need for geothermal regulation. They can obtain support from other states and the National Ground Water Association. The more documentation supporting the bill the easier it will be passed. Danny stated that the Board needed to get someone that understands the legislative process to promote the bill in front of the legislature. He believes, based on his recent experience that he and Orris did not have the proper expertise required to get the bill passed.

Kevin Moses recommended hiring a lobbyist to get the bill passed. Kevin further said that the Board has a year to develop the regulations for construction requirements of geothermal wells and the Board needs to have these regulations straightened out before the year is up. David stated that the Legislative Research Committee (LRC) will dictate what the new regulations will cover based on everyone's opinions. David explained how regulations are developed by the LRC. He stated that how much work you put into the process determines what you get out of it.

Kevin Moses noted that he had recently submitted a bill that died. He explained that LRC had modified the bill he submitted, and he is worried about the wording of the future geothermal well construction regulations. David said that the LRC normally writes a bill leaving "wobble room" in the interpretation. David discussed the process, in which LRC goes through in developing regulations and how it is accomplished. He described the Geologist-in-Training legislation that was recently passed as an example. David suggested the Board get NGWA assistance in preparing the documentation for the bill and in obtaining a lobbyist. Kevin McCray and Lloyd Watson from NGWA previously came to talk to the Board. It was agreed, that Danny needs to suggest this to the KGWA board for a future meeting.

David noted that at the next KGWA board meeting they plan to appoint a committee to work on the regulation polishing.

Orris then read the history of HB561 into the Board's records.

- March 1- HB561 was introduced in House of Representatives by Rep Leslie Combs
- March 5- HB561 was sent to the committee for Tourism, Development & Energy (H)
- March 19- HB561 was posted in committee
- March 22- A Roll Call Vote for HB561 received Unanimous Approval and the first reading was reported favorably to the Calendar
- March 23- A second reading of HB561, to Rules; there was opposition due to financial concerns and a floor amendment (1) was filed
- March 27- HB 561 was recommitted to the Appropriations & Revenue committee in the House (H)

Orris then questioned the financial need and amount. David explained that regulations are normally developed to require some inspection language and to require the appropriate financial mechanisms to create a budget to administer the program full time. The Cabinet's position is that money is needed for the program.

Scotty said that, as explained to him by the assistant director of the Division of Water and his branch manager, it costs about \$90,000 per year to administer the current water well drillers certification program. Currently the program is only bringing in \$20,000.00 through certification fees, so there is a \$70,000.00 cost over-run.

David said that the cabinet feels the new program will cost some amount of money to operate and there will not be enough new drillers, who will be registering to pay for it. Kevin Moses said geothermal drillers were against any additional paper work and fees. Danny replied nobody likes paper work, or extra expenses, but that everyone needs records. He then went on to explain how keeping well records had benefitted him and that keeping them does pay off in long run.

Discussion followed off topic concerning paperwork necessity and stories from the Board member's personal experiences.

Danny stated he thought he could get letters from the Tennessee Well Drillers Association and that he and Todd will get letters from contractors and homeowners associations. Danny stated that he is on the South Atlantic Jubilee Drillers Association board, and he is going to their meeting in July 2012. He indicated that the Jubilee can help the KGWA board with getting a lobbyist. Jim Bates stated that his brother can also help with locating a lobbyist. Jim thinks the bill should be ready to go by October 2012. Danny advised that it is best to keep it simple with the KGWA board.

Discussion of construction standards followed with consensus among the Board that common standards (regulation) will educate the public and geothermal drillers and eventually will make it necessary for everyone to follow proper construction standards.

Danny called for a short bathroom break at this time. As the meeting resumed Danny reiterated the need to have the bill and documentation ready by November or October of this year. David said DOW would prompt him at the meetings.

Danny asked if there was any other old business. No one mentioned any so Danny proceeded to new business.

New Business:

Danny asked if there was any New Business. David Jackson responded by stating that Jim Dinger's position needed to be filled with someone from the Kentucky Geological Survey (KGS). Danny asked wasn't that position filled by Bart Davidson who was introduced earlier.

Bart said that Jerald Weisenfluh, the assistant director for KGS, asked him to fill the Board position in the interim period until Jim Dinger was officially replaced, and he agreed to do so. Bart indicated that he was willing to be Jim's permanent replacement if the KGS and Board so desired. David stated, that the Division of Water needed to write a letter to State Geologist Jim Cobb for his suggested nomination to the Water Well Drillers Certification Board. Once the DOW receives the name of the nominee, it will send a letter to Governor Beshear asking him to approve the nomination or otherwise select a board member. It is the cabinet's responsibility to prepare a request on behalf of the Board.

Bart is a geologist in the Water Resources Section of KGS. Bart also manages the Kentucky Water Well Repository. Jim Bates made a motion to proceed with David Jackson contacting Jim Cobb, in regard to selecting Jim Dinger's replacement. Orris Hayes seconded the motion. Danny asked for a vote and it passed unanimously.

The second item of new business that David wanted to discuss was the driller's quarterly newsletter. David said if anyone has articles or information for the newsletter, please let the DOW know. He then asked Kevin if he would send information on the Drillers Workshop Auction to him for DOW to report in newsletter.

The third item of new business from David was that a certified water well driller had been issued a NOV from the Division of Plumbing (DOP) for installing a waterline. He was cited for practicing without a license and not having a permit. The driller was order to cease and desist. Due to no action being taken in response to the NOV, the driller was given a \$300.00 fine. David wanted to know if anyone on the board remembered a past memorandum of agreement (MOA) with Division of Plumbing that addresses this issue.

Danny said his firm had performed this same task just last week. They had run water to a home and pressure tank, but then had to have a plumber connect the pressure tank to the home's plumbing. Kevin said this is common practice by water well drillers, which was seconded by Jim Bates. David stated he has to draft a letter to Division of Plumbing, and he wanted to include what is considered the common practice by water well drillers.

Danny guessed that the driller that got the violation was Alan Burgess based on previous experiences with him. David stated that the DOW does not have any written documentation on a MOA. David said in communications with past program administrators from the DOW, they seemed to remember a verbal agreement with DOP to connect a well to a frost-free hydrant with a backflow preventer for sampling, but that was all.

Scotty said according to Alan Burgess, the Local Health Department told him to dig the water line up, but Alan does not want to do as told. He contends that this situation falls under an old agreement between the DOW and DOP. Alan wants DOW to back him up on these issues.

Kevin Moses said standard water well contracts include installing the well, and the water line from the well to the pressure tank. The plumber connects to the ball valve on the home side of the pressure tank. David stated that the DOW wants to obtain a written MOA for this practice. Danny noted that farms and bee keepers are exempt from regulation. Others joked that they needed to put bees on their drill rigs.

Danny also noted that a plumber is normally involved when the well is connected to a residence. Kevin stated that a driller should be able to run a line to the pressure tank because the driller needs to do this to determine if the well pump system works properly. The pressure switch and tank, the size of the pump, the drawdown and the pressure in the tank all need to be coordinated for a well to function properly. Danny stated that everybody needs to do what they know how to do and have the training to do. David stated that he is going to draft a letter to send to DOP and let the Board members review it before he sends it.

Danny had a question for David. He recently observed a well that had been destroyed. Evidently, the well had been cut off, at ground level, by a bulldozer, and had not been properly abandoned. He stated that this action, was not done by a certified driller and the landowner probably did not know that there is a regulation regarding well abandonment. What is he, as a water well driller and concerned citizen, to do in this case? David suggested that Danny make a complaint to the DOW about it (anonymously if wanted). Then DOW would respond to it. He noted that there are no current regulations for property owners to be responsible for abandoning unused wells. David said that the DOW is trying to do more to increase public knowledge about it. Jim stated that improper well abandonment is one of the reasons he got on certification board. He said a little foresight goes a long way, and he has plugged some wells in Tennessee that Homeland security had funded. David said some states in our region that use drinking water set aside funds are used for well abandonment, but the wells must be public water supply wells or a well that may impact a public water supply in order to use the fund. In addition, the states that do this have additional funding from permitting fees.

Danny then informed the board that Scotty, the DOW program coordinator, had something to show the board.

Scotty showed board members the new license certificate and the driller's card for the 2012-2013 certification year. A brief discussion followed concerning laminating wallet cards and medical cards for CDL operators.

Scotty then brought up a question about type of drill rigs the drillers were certified to operate, and noted that this information is also supposed to be on the certificates and wallet cards according to the regulations. According to the drilling regulations each certificate is suppose to identify the method or methods of drilling that the driller is qualified to operate, based on his application. Scotty noted that the DOW does not have this information for many drillers due to file purging and the fact that some drillers had grandfathered into the program.

Orris had questions about the general test for drillers by NWGA and DOW. Scotty said that the DOW has study materials available for them as well as sources for other materials. Scotty suggested that the drillers give classes at a workshop on specialty drilling. Scotty explained the exams that the new drillers are required to take to get a certificate to drill. Scotty asked if the Board has ever addressed this issue because currently it is not done by the DOW. Jim said he remembers that during the early days of the Board a member had said; "A driller, is a driller, is a driller" and a consensus was never reached by the Board. Danny and others on the Board were surprised by this regulation that required the specialty drilling method on their license. Many had grandfathered in and never taken an exam. The general sentiment by the Board appeared to be to ignore this language in the regulations and continue on as currently done for now. They felt that it would cause too many problems to do as the regulations stated. However, they wanted Scotty to investigate the why of this issue and report back to the Board this information.

Scotty further said that there is no description in regulations for installing a well by dual rotary rig or sonic rig. The regulations currently require an annular space and a seal around the well. These drilling methods do not install or require an annular space or seal as the regulations require. This causes problems when well records are submitted to the DOW without this data. Scotty indicated that the DOW was considering requiring drillers to request a variance for wells drilled by this method. Other alternatives would be to develop a blanket variance or request a change in regulation to accommodate a surface seal for the new drilling method.

Danny suggested that maybe the drillers using this drilling method should install a surface seal like on a tile well. According to him his firm already puts a concrete pad around the well to set the pump on.

Danny stated that the average cost of an irrigation well making 2000 gallons of water a minute runs \$60,000.00 to \$70,000.00. He stated that they do not use this dual rotary reverse air circulation rig for drinking water wells. Danny also stated he does not include the surface pad in his well logs and drawing because he considers the pad part of the pump set up and not part of well installation.

Danny went on to describe drilling with a dual rotary rig and answered questions from the Board about the methodology and well installation.

Danny asked if anyone has any ideas on doing license specialty drilling certificates differently. David suggested DOW should check with older program members to see what was done in the past. Changing the regulation requires opening them up. Jim Bates said for clarification that

former board member Gerald did not want to comply in the early days. He would bring the new rig to the same job and he did not want to test for the new drilling methods.

David suggested Scotty look into the issue further and report back. Scotty mentioned that dual rotary and sonic are contained in the drilling statute but not in the regulations. Drilling rock cores and soil sampling are also not covered in regulation but are mentioned in statute, and they are also covered by Groundwater Protection Plan regulations.

Orris then talked at length on his experiences in foundation drilling and coring for dams and the plugging methods that he used.

Scotty explained current drilling licensing requirements to the board. Danny said he grandfathered into the program and he never had to take a test. However, he questioned if he should have taken a test when he changed rigs and drilling methods years ago. . Scotty said yes, according to the regulations he should have taken the appropriate NGWA specialty examine and then reported the passing exam results so that the DOW could update its records. Scotty said the point is that the DOW has new drillers applying for certification all the time and the DOW makes them pass exams prior to getting certified. We do not certify them until they pass the exams from the DOW on the regulations and the NGWA specialty exams. However, DOW records do not always contain this information. The records of some of the older drillers that grandfathered into the program do not mention what drilling methods they are qualified to do. In the past, the files that contained this information have been lost or purged, so it would be hard for DOW to put this information on the drilling cards or certificates now. David stated that the DOW will look into past decisions, and the current drilling statues KRS 225.400. Orris was opposed to specific regulations for specialty drilling. Danny stated the Board will continue this discussion in the next meeting.

Danny asked if there was any further new business. No further new business was brought up.

Next Meeting:

Danny asked for suggestions for the date, time, and location for the next meeting. A suggestion was made by Orris of the Breaks Interstate Park, but then he suggested Greenbo Lake in Eastern KY near Ashland. The next meeting was tentatively proposed for July 20, 2012, if that time is not in conflict with South Atlantic Jubilee. Orris made a motion to meet in Greenbo Lake at 9:00 a.m. EST and Roy Toney seconded the motion. Danny then called for a vote on the motion. The motion passed unanimously by the board.

Adjournment:

Danny asked for a motion to adjourn the meeting. A motion to adjourn was made by Jim and seconded by Roy at 13:30 p.m. and was passed unanimously. Danny Kelly adjourned the meeting at 13:30 p.m.

NOTE

It was determined after the meeting that the South Atlantic Jubilee conflicted with this date. The meeting was rescheduled and will be held at Greenbo Lake State Resort Park near Ashland, Kentucky at 9:00 a.m. EST on July 13, 2012.